



Land First

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Land Rights for Social Justice and Freedom and Economic upliftment

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Community Self Reliance Center (CSRC)

Editorial

This is very pity to note that those who plough land suffer from starvation, malnutrition and illiteracy. Most of the poor are landless, and they are deprived from participating in the development process. Most of the political parties were established with the slogan of “land to the tillers”. Unfortunately none of them dare to materialize it in practice. Consequently, this fueled to widen the gaps between feudal elites and peasants, increase magnitude of injustice and creating vicious structure of poverty and denials. Although every government carry slogan of social inclusion but yet over 1.2 million families have been excluded from development mainstream. Issue of land rights is not only the issue of distribution of land but it is an important aspect of ensuring social justice and protecting human rights.

His Majesty’s Government has made several amendments on land act and brought land reform programme over the last four decades but they never turned out for changing quality of lives of the tenants and tillers. Since large numbers of people were excluded from the excess of productive resources, several development initiatives could not reach at the doorstep of tillers and marginal farmers. With the realization from development practices, few social development agencies focused to address the root cause of denials and deprivations. As a result, the interaction, debate and dialogue on land rights begun in past couple of years despite Community Self Reliance Center (CSRC) engaged into this issue for last eight years. The land rights campaign has been launched throughout the country with the leadership of tillers especially Dalits, women and minority ethnic community with the active solidarity and support from civil society and development agencies.

CSRC has been a pioneer beginning land rights issue and debate in mainstream development field as a matter of priority. CSRC is proud to be part of this greater movement in the country. We look forward having more solidarity from national and international and national development agencies, agencies and individuals working on social justice and human rights. Our collective efforts will be enough for changing current unjust socio-economic and political structure of this country and making difference on the lives of tillers and peasants.

CSRC would like to request to its all valued readers, collaborators, solidarity members and other well wishers for providing feedback and creative suggestions to make this publication worthwhile and give further momentum to land rights campaign.

In solidarity,

Community Self-Reliance Centre (CSRC)
September 2004

Inside

A Glimpse of Nepal Land Rights Movement

■ BIMAL PHUNYAL



Deepening discourse, widening participation

The recent years have witnessed a significant positive shift in the land rights discourse in Nepal. There is a widespread recognition amongst researchers, planners, development practitioners and social change activists about the direct linkages between the economic poverty and landholding status, between social discriminations and landholding and also between the overall empowerment and land ownership, especially in the rural contexts of the country. As well, a wider popular mobilisation for land rights has been observed across the country in these years.

Nepali peasantry was 'assured' of 'Land to the Tillers' by various political parties back in the decade of 1940s. Other power centres too conveyed similar dreams. The much talked about 'land reform' programme of 1964 was never completed, right till the last days of Panchayat regime, let alone its 'positive impacts'. A meaningful or significant land reform process has yet to see the light of the day. Attempts are being made to critically review the historical development of land system and draw learning from the both 'missed opportunities' as well as positive actions to date, if any.

In the past, only the opposition political parties and some radical intellectuals would talk about the land politics and about the need for a pro-

gressive land reform. Politicians across the spectrum, from the partyless panchayat system days, have always been more interested in organising the poor farmers for strengthening their vote banks, as 76% of the national population still depend on agriculture, rather than making any genuine efforts towards mobilising social energy for the progressive land reform.

There is good news! Now, different sections of civil society as well as the oppressed tillers themselves have started to voice their concerns and propose alternative policy for ensuring their land right. Forums of concerned groups and people's organisations have evolved at different level, which have initiated local level interactions on land right issue. As the conclusion, we can say that the discourse on land rights is deepening and the social mobilisation for the goal of genuine land reform is widening. More importantly, the agenda of land reform is being discussed at local community and district level forums, not only in the chambers of planning commission or at the party headquarters or the palace corridors. Mass action and interaction for land reform has started indeed.

Land right is a human right

A notable development is that many a rights advocates in the country have started to acknowledge the issue of land right as a human right issue. Land right is obviously a human right is-

Lalpurja

sue, as the right to land determines whether a rural agriculture dependent person or family can enjoy other fundamental rights. The deprivation of land right normally leads to the deprivation of many other rights of the citizens. For instance, if we look at the Haliya and Kamaiya systems [forms of bonded-labour] in western Nepal, the roots of the problem clearly lie in the unjust land relation there. All the Haliya and Kamaiya were made landless, then the landlords and the powerful elites compelled them to accept being bonded-labour. Under the present political provision, landless people cannot even apply for Nepali citizenship certificate. When one is not even a bonafide citizen, how can they enjoy other rights! The same family then cannot send their children to school, being deprived from again even basic education. Bonded labour cannot either claim any fair wage from the employers.

Therefore, land rights movement in Nepal is advocating for the need of taking land right as a basic human right issue. Solidarity from all kinds of human rights voices will further strengthen the land right movement.

Movement methodology

The movement is fully committed to peaceful actions and social mobilisation. Not any kind of violent method will be permitted at any level of movement, though the political process of depriving masses of people from their right to land may have been violent and even brutal with the misuse of state power. We strongly believe that only the peaceful actions and processes can contribute to sustainable social justice in society.

We are also committed to participatory democracy. All the decisions relating to the movement, whether planning any new initiative or organising a rally or gathering necessary resources, are made in fully participatory manner. Every movement participant will have opportunity and space to share her/his opinion, idea or experience.

Structures and mobilisation processes

We have adopted two-pronged organisational processes and structures for social mobilisations. The land right deprived groups such as the land-

less population, Mohi or share-croppers, Haliya, Kamaiya and others have formed their own organisation - we call them people's organisation. Such people's organisations have emerged at village, district and national level. Conscious efforts are being made to build and strengthen independent people's organisation, as this is going to be the backbone for the success of the whole movement. It is also aimed at developing empowered leadership teams at different level from amongst the land rights deprived groups.

Likewise, 'Land Right Concern Group' has been formed at national and district level. All those who share the concern and give their solidarity to the land right movement - CBOs, NGOs, or any other civil society groups including personalities; can be member of this concern group. The main role of the concern group is to build and enable people's organisations, help them with necessary information and also actively involve in advocacy and lobbying works. The national concern group has its secretariat at CSRC.

As people's organisations and the concern groups have got their own organisational structures, membership criteria and the leadership team, these two organisational mechanisms meet separately, take their own decisions and organise events accordingly. Both structures are independent entities on their own. Concern groups can provide supports, give effective solidarity, but cannot interfere in the decision making processes of the people's organisation.

Inclusion of women and men, Dalit and all the ethnic groups is seriously considered at all level of the structures. Each social and ethnic group share their concerns and perspective on land rights, which are taken into consideration while doing the agenda for land reform. Also, the issue of women's independent land right is being discussed at all level.

Context Mapping as a foundation process

People's organisations and the concern groups have been carrying out participatory context mapping of the given land relations from village to district to national level. The context mapping is much more than just 'information collection'. Landless and other deprived groups come together, prepare a social map of their surrounding, discuss about their lands, land disputes and any other problems and issues. They also do some kind of timeline analysis - historical trend of land ownership and land management in the area. The outcome of such exercise is then shared openly with local government officials, traditional and social leaders, NGOs and other development groups in the area and up to the district level. Such a context mapping exercise has been proven very effective for mass conscientisation on land issue. This is also important foundation building process, both for the empowerment of deprived groups and strengthen people's organisations.

Land Rights for Women

Promoting gender justice and security of rural women's livelihood

■ JULIA CHITRAKAR

"If the land is gone, or taken away from us, our whole life will be ruined. How can we survive without land?"

- A rural peasant woman from Chitwan district of Nepal

Establishing the Issue

'Land reform' has been a much pronounced phrase in the Nepali political-economic discourse since 1940s. However, neither the political slogan 'land to the tillers' ever included women as bona-fide independent tillers, nor even the academic debates on the land right issue have considered the need for the provision of women's land right. State imposed land reform policy provisions so far have never recognised the need for even 'land to the male-tillers', let alone women tillers' land rights!

Only since the emergence of National Land Rights Concern Group, the issue of women's land rights is being discussed in the country. Many district level land rights forums have also important made deliberations on the subject over 2004. Therefore, the main task for women and land rights activists is to establish the issue within the land reform debate and build a gender-sensitive and gender-inclusive land rights movement, as well as formulate gender-focused land reform agenda.

Conventional wisdom and the facts

It is important and pertinent to contemplate over some celebrated conventional wisdoms that our fore-parents have been singing and living with, which are as follows:

"BHUMI MATA (Mother Land) is the mother of mothers."

"BHUMI MATA (Mother Land) gives life to us, nourishes us and protect us."

"Our mothers with the help from fathers and others take care of the mother land."

According to Nepal Human Development Report 2004, women contribute 60% of the total agricultural production of the country. Looking at typical rural village, this percentage goes up and should not come down. Nepali rural women are the major producers and providers of food in the country. However, the general tendency to look down upon the role of women in society is also applicable in the agricultural sector, and the men's role is always highlighted being the 'superior'. Grassroots level participatory context mapping exercises have helped a lot to demystify the reality.



'Poverty' of 'poverty debates'

Nepal government and most of the international development agencies including multilateral donors have produced volumes about poverty in Nepal and also prescribed series of poverty reduction programmes and strategies. Almost all of them talk about 'empowerment' of poor people, the need for 'poor-focused' programmes and raising the level of income for the poor. Unfortunately, none of them can see the need for a progressive land reform and the need for empowering the poor households by ensuring their land rights.

Land is the primary source of livelihood for the majority of the population – as over 76% of the population are engaged in agriculture occupation. Landless and near-landless classes of people fall into the criteria of 'absolute poor' and 'below poverty line' population. In theory, poverty 'experts' agree that within the poor section of society, dalit, indigenous and ethnic groups and women are most poor. Unless the poverty of the poverty debates is addressed, we cannot achieve any poverty reduction in this country.

Imperative of women's land right

A Nepali economist Nandaram Shrestha rightly observes: "In an agrarian society, landownership pattern determines the social relation. Larger the land one holds - greater the power one holds. Land ownership measures prosperity or destitution." On the other hand, to be landless means to become powerless, and the powerlessness leading to various other forms of social disadvantages. When we look at the landless and land rights deprived groups such as 'Haliya', 'Kamaia', 'Kamalaria', 'Bukharia' or 'Sukumbasi', we can clearly see how their overall social status is determined by the landholding status. Within a household or family too, male or female member who ever has access and control over the land has

superior status. Existing unequal gender power relation is a product of existing landownership patterns. Men are enjoying greater power as a result of 92% of landholdings belong to male population in the country (Nepal HDR 2004). Because land is a major source of political, economic and social power - access and control over it determines one's status in the society.

Therefore, land rights activists in Nepal have been advocating for joint ownership of man and woman over the family land. And, women's independent right should be there in the case of single woman, divorcee and widows. The main



base of livelihood for rural people is their right over natural resources including land. Arable land is most important base for rural population. Those who have access to land and can produce enough food for the year and don't have to look for out-migration. Women from such family background have lesser chance of being accused of 'witchcraft' and trafficked away to foreign brothels. Girls from landless or semi-landless households have almost nil opportunity to complete their primary school education.

Diverse perspectives on women's land rights

An unjust picture of women's landholding in Nepal

Women constitute 51.1% of the total population (23151423) in Nepal according to the latest census (2001). According to UNDP's HDR, women's contribution on agriculture is 60.5%. but of the total landholdings women own only is 8.1%. And the average size of their land is just two thirds of that an average male holding. Like wise only 4% of the households have female ownership of both house and land.

Social justice and human rights perspective:

Land right is a human right: all human beings should have access to land and other natural resources - those who manage and protect the land should have control over its use - women are the major contributors to agricultural production and

managers of the land - thus women should be able to claim their land right as a human right.

Political and economic empowerment perspective:

Land right is a key to women's empowerment: landownership gives the both social and economic power to women - land ownership determines the level of women's political participation - only women's independent land right can promote women's empowered voice in any public decision making processes.

Livelihood perspective:

Land right ensures a sustained source of secured livelihood: land is the primary and sustained source of livelihood in the rural context - rural women's land right, ownership and control over the use of land, can strengthen the base for overall rural population's livelihood system.

Productivity perspective:

Land rights and gender-sensitive land reform enhance productivity: absent landlordism and the breach of occupancy ceiling have hindered productivity - a gender-sensitive land reform can check all these problems.

Environmental perspective:

Land rights for women helps to conserve environment: Experience from all over the world shows that women conserve the environment and manage the land best.

Actions for change

1. There is need for gender-sensitive land tenure context mapping at all level, from VDC to national level, so that all the specific cases are taken into consideration
2. Joint land occupancy rights of man and woman, in the case of single woman, divorcee and a widow managing the field.
3. Women's group at community level to be provided collective right for managing previously unused lands. However, there is a need for critical scrutiny in the cases of so-called 'fallow land' as the state normally regards communal land conventionally managed by indigenous or other ethnic communities as the fallow land, as they might not have been registered as the collective land in the authority.
4. In the case of managing communal and other public lands management committee should be formed bringing in the concerned community people, which must include women not less than 50% in the membership.
5. Women's land right should be regarded as human right issue, by the government, international community and other concerned.
6. Gender perspective must be well integrated with ethnic and dalit perspective while carrying out context mapping and setting land reform agenda.

Developing Female Trainers and Activists

■ JAGAT BASNET

Land right movement is an integral part of overall social justice movements. Land right movement cannot achieve its goal, unless social justice perspective and values are consciously and creatively adapted within the movement. Gender justice is one of our key values in the land right movement. Equal right to land for women has been a major slogan and reform agenda. Following critical reviews about the status of land rights activists and advocates at different forums, it has been widely felt within the movement that there is a great need for a clearer strategy to empower women land rights activists in every district, as well as develop female trainers and net-workers at national level. CSRC, the secretariat of the national land rights concern group, has worked out a tentative strategy towards this goal and planned activities accordingly. It is not enough just to invite women to join the protest rallies and processions. There is a need for enabling women activists and advocates, so that they can be good trainers, organisers, net-workers, writers and negotiators on the land right issue.

On this background, let us share some observations from a case study of women land rights activists' training programme organised by CSRC in early 2004.

Gender critique of CSRC's past efforts

Although CSRC had been involved in land rights movement since 1995, as a facilitating organisation, organising series of policy dialogues and mass actions at different level, the review and reflections from gender perspective revealed the fact that the land right movement by and large had not been truly gender-sensitive and gender-inclusive. In fact, women are the ones who manage and develop farming land but they are largely and systematically excluded from land ownership and control over this productive asset. Therefore, it is not enough only talking about 'land to the tillers' as the tillers are both men and women. If it is a family land, both men and women must have joint ownership over the land. This issue and perspective was completely absent in the CSRC programme strategy in the past. In the same way, there was no strategy for developing female trainers and advocates. On this background, drawing learning from various critical forums, CSRC organised this particular training event - it was a five-day long intensive and residential training programme especially for women.



The main objective of the event was to develop at least 20 key women trainers at national level, as well as develop district level strategies to develop more female human resources so that gender-sensitive and gender-inclusive land rights movement can be promoted throughout the country.

The Participants

CSRC followed participatory process while selecting the training participants. Some basic criteria were developed, based on which participants were identified by local groups and networks in districts. There were altogether 27 participants coming from 15 districts, out of them 20 were women. Some 5 male participants were also selected as they needed gender sensitisation as well. Men were also brought to the training so that they could also be consulted about how more and more women could be enabled and empowered at district level, and how men could contribute to that process.

Most of the participants who came to the training had already been exposed to land rights issues and the movement. Some had got quite some years' practical experiences in on the subject. Back at home, the participants were dealing with various kinds of land right issues, such as: work with the so-called freed Kamaiya, Haliya, Mohi tenants, Guthi tenants, landless groups and also working on forestland issue.

Content of the training

Based on the learning needs of the participants, as assessed by themselves and other movement organisations, major contents for the training were

agreed as follows:

- Basic concepts of land, land relation and land right.
- Land right as a social justice issue, economic empowerment issue, Dalit empowerment issue and women's right issue.
- Strategy and process of developing gender-inclusive people's organisations at different level and also gender-sensitive and inclusive civil society forums.
- Aspects of probable strategy for the capacity building of local women activists
- Learning from different social movements internationally
- Ways to link up and get solidarity from other rights movements - such as: Dalit rights movement, women's movement and community forestry movement, etc.

Learning Process

A participatory learning approach was adapted throughout the training. The resource person shared land reform models and experiences of some selected international movements for land rights. Participants had enough creative space to reflect on, to interact on and draw learning from there, so they seemed to be enthusiastic and committed to learn throughout. International experiences helped to strengthen their knowledge base on land issue.

In the beginning, all the participants were requested to present a situation map about women's land rights in their respective districts. This contributed to do context mapping from gender perspective, so that they could articulate the existing situation of women's rights on land. Very interestingly, the participants themselves developed a social picture with gender-disaggregated data, burning issues of the existing land tenure system, given social and household level power re-

lations, etc. This exercise helped participants to understand the gravity of issue and its relevance on the lives of women. Likewise, the participants also developed their own working strategy for the development of people's organisations and land rights concern groups with a gender perspective. The facilitator always gave attention for everyone's equal participation in the process, equal stake on any decision, and best level contribution from every one throughout the training.

Some Impressions from the training

As a participant, looking back, I can say that, although this was, relatively speaking, a short training course; in terms of covering issues and contents, participants could learn a lot of things and built strong perspective on gender-sensitive land rights movement.

All the participants, at the end, expressed their views that this remained a historical training event for them, because until then, they had never discussed about women's land rights and aspects of life security in that deeper level. Although some of them had been discussing much about general property rights, but not specifically about land rights, as a crucial assets for the rural women. Most importantly, a gender-inclusive action plan was also developed for all, as an outcome of the training programme. Thus, it remained a truly training-workshop, not a typical NGO talk-shop, in the bazaar of "workshops".

Looking at Outcomes over a year

The visible and widely accepted outcomes of the training can be presented as follows.

Going back to their respective working areas, the participants were able to conduct gender disaggregated context mapping and also developed wider perspective about land rights movement and its linkages to various other rights initiatives at village and district level. The participants were convinced that at least 40% women participation is needed in every layer of the organisation, from the primary community group to national level in the people's organisation. Only then, a real momentum can be expected. The participants developed gender-sensitive action plan at their working area level, in consultation and participation with other concerned.

The issue of women's land right is now regarded as an important issue for the social justice and human rights movement. The participants have got clear understanding about the importance of women's representation in people's organisations and networks, too. Whatever groups or organisations they have built after the training, they have followed the gender principles and gender-sensitive processes since then.



Land related issues in Nepal

Tenancy

It is a long practiced tradition that land owner let the farmers to work in their farm and get certain amount of rental. The same people who plough landowner's land and share crops are known as tenant. The legal and rightful entitlement of tenants over tilling land is tenancy rights.

According to government statistics, there are 339689 tenant families who have been ploughing 226782-8-3 ropanis (**put it in hector**) of landlords' land. But the non-governmental sector strongly believes that the actual statistics could be substantially higher if one collects accurate data. Similarly, it is estimated that there are over 400,000 families who have been deprived in the absence of collecting tilling evidences and cumbersome administrative formalities. Those who are registered in government records have also not received tenancy rights. The tillers who have been tilling land with bond (50% crop sharing, contracting, 1/3 crop sharing etc are severely being exploited. Government has abolished tenancy rights in the name of abolishing dual ownership on land in 1997.

Landlessness

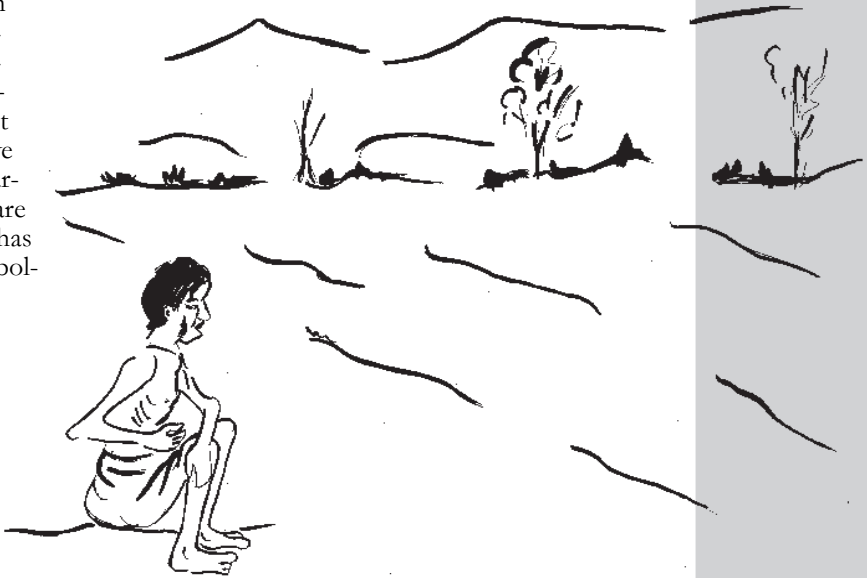
The large group of people have been landless just because few people hold huge area of land. The situation of being excluded from land ownership has make these people deprived from participation in development mainstream and enjoying one's fundamental rights. 217,675 families, out of total 42,53,000 families in Nepal, have no piece of land to build a shelter, majority of them are agriculture labours and extremely poor who do not have other options for shelter and livelihood. Likewise, 802,615 agriculture labour families do not have land for cultivation, and work for landlords. Most of these landless tillers come under Dalit communities who are living vulnerable lives. These people's poverty is directly related with the access to land. Without having access to land, one can get benefited from other development interventions either be it from state or be it from development agencies. We do not find accurate statistics and nature of landlessness in Nepal.

Trust Land

The fixed assets allocated or donated (especially land) for maintaining religious and cultural performances or any specific public welfare initiatives is called Trust. The person who donates such properties to the trust loses the ownership over such assets. With the income from these properties, the religious institutions, libraries, cultural

activities, maintenance of public heritage etc are run and managed.

According to law, the donated property cannot be used except the purpose it is donated. But such trusts are suffered from proper management for long time. The land donated to the trust has not been recorded properly. The trust authority is exploiting the tillers severely. Trust Corporation was established in 1961, which now branches in 68 districts. Mathani Math in Mahottari district is one of the largest trust in Nepal in terms of having huge property.



Haliya

Those who plough are called Haliya. They are employed in different terms and circumstances. The landowners in Mid and Far Western region of Nepal have a common practice to keep Haliya either at home or at command. They are semi bonded in nature and this tradition is known as Haliya system. This system prevails in other parts of the country in different forms and conditions. Since attempt is not made to study in depth about this system, actual statistics is not available. In the absence of study, the reality of living of these people have not come out and not yet been an issue of abuse of rights to the large number of people. The people under Haliya system are living miserable lives, which have occasionally reported and exposed. It is unofficially estimated that the population of Haliyas are around 300,000 in Nepal, where are 60,000 are living in Mid and Far West region alone. Semi bondage, caste based exploitation and unfair wages are the common problems being faced by the Haliyas.

Ukhada (likely to evict)

The tillers ploughing landlords land who likely to expel by the landlord at any point of time is called Ukhada system. In this system, the tiller provides cash or kind to the landlords as rental. Although they plough, tillers do not have rights over such land. The tillers should give up farming as per the discretion of landlord without any rightful share on the land does not matter since how long the tiller is ploughing.



Over 5000 families residing in Nawalparasi, Rupendehi and Kapilvastu districts have been suffering from this system. The law gives space for providing land rights to those tillers but people have not been benefited from this policy so far. Those 21 families in Rupendehi, 300 families in

Kapilvastu and 150 families in Nawalpari have filed application to the government department, which is not yet decided. Rest are even not in a position of filing application due to lack of information, supporting system and procedural knowledge.

Women's ownership over land

According to census 2002, only 17.13% women have ownership on property, and only 10.84% women have ownership over land. Likewise, less than 1% women have ownership over building (house) against total families in Nepal. Only 0.78% women have homes in their name (ownership). Similarly, 5.42% women have ownership and rights over livestock in their home. A statistics says that women accounts 46% share against total economically active population. Women contributes 50% household earning where as men contributes 44% and children 6%.

Freed bonded labours

Bonded labour system prevails in five districts namely Banke, Dang, Bardiya, Kailali and Kanchanpur in Nepal. It is a form of slavery. The poor people live in the premises of landlord and the men are entrusted with farming where as women are assigned to household chores. There is no limitation and agreed nature of work and compelled to follow landlord instruction.

Do we need land reform or land bank?

Land reform for ensuring social justice and asserting human rights have been matter of concern among political parties, civil society, development agencies and more importantly among tillers and peasants. The tillers have increasingly been empowered and raising voices to redistribute agriculture land, effective implementation of land ceiling, ownership of land to the tillers, ensure tenancy rights based on possession etc. This has led land rights movement with the leadership of tillers in over 20 districts through the country for couple of years. In the mean time, government had introduced a concept of land bank in early 2004, which was opposed by the tillers and civil society just because the land bank cannot address the genuine and justiciable ownership of land among the tillers. The present government under the chairmanship of the King has again activated the same concept once again.

What is land bank?

According to initial concept paper brought forward by the government, an institution will be set up who would either buy land from interested landowners and sells to the landless tillers directly or finance to some other agency to handle

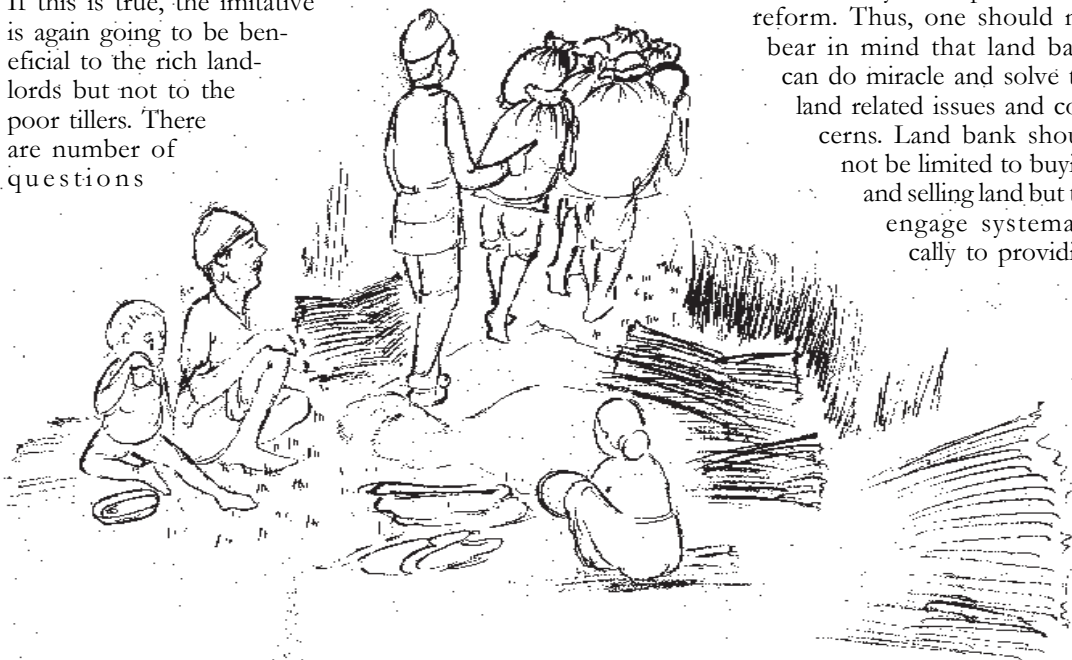
this function. Government has brought this concept as a pilot, which will be implemented in different phases. According to the initial concept, government is going to provide at least 1 bigha (.hector) land on loan to the 25,000 tillers in three years period. This is a concessional loan that needs to be paid back in 15 small instalments in 15 years time. Landless tillers especially Dalits, tenants, landless and ex-bonded labours would get first priority to buy the land from this bank. According to the sources, government is going to borrow three billion rupees from the World Bank to finance for buying land from landowners.

According to the respective government sources, the concept is still in an initial phase and need to be worked out further more rigorously. However, the concept has been criticised from different segment of the society i.e. form tillers, human rights activists, civil society organisations etc. The major criticism includes the land bank is a tiny part of entire land reform, where as without systematic and effective land reform, the current issues of exclusion, deprivation, starvation, social power relations, empowerment, frustration and conflict etc could not be addressed

by the state. Similarly, since this is an issue of 1 million families landless tillers and peasant, providing small piece of land for 25,000 families in three years time does not contribute to address the main problem of the society and the country as a whole. The amount we spend and the efforts we make could not be as much worthwhile as it should have been. Even government officials express that this is one of the expensive approach and it cannot solve landless problem of Nepal.

Another critic being received is that this is a strategy of selling landowners land (who are in and around power and privilege) and they cannot utilise it now because of insurgency taking place in the village.

If this is true, the imitative is again going to be beneficial to the rich landlords but not to the poor tillers. There are number of questions



floating around that who benefits from the land bank and whether the initiative contribute to ensure social justice, whether it help to increase production and productivity etc. This approach is only an initiative to have additional loan burden to the country. This would give a space to the landlords in this fragile political situation to sell land exceeding legal ceiling. It is interesting that government has not consulted either with civil society or tiller communities regarding the objective, process and methodology of implementation of the concept. This is the point where civil society has been emphasizing that any policy that affect to the tillers need to be brought with their participation and ownership. There are few people who are in favour this policy and they have taken this concept to contribute to reduce poverty and bring peace in the country.

There are around 7,00,000 tenant families in the country who have been tilling landlord's land for generations and they are entitled to receive 50% of tilling land in the form of tenancy rights but it is not being materialised due to ineffective implementation of land act by the government,

negative power used by the landlords over tillers and the low level of education among the tillers. Many landless people have been leaving in the public land. Government has not been serious enough on the problem of these people.

There are several alternatives for providing agriculture land to the tillers if the government is honest, serious and committed to do so and make large impact on the lives of millions of poor tillers and their generations. Firstly, government need to implement effective land ceiling and confiscate excess land from landlord. This courageous initiative would be evidence that government is really concerned about the poor tillers.

It is already mentioned that land bank is a very small part of land reform. Thus, one should not bear in mind that land bank can do miracle and solve the land related issues and concerns. Land bank should not be limited to buying and selling land but the engage systematically to providing

facilities and inputs, such as irrigation, agriculture road, insecticide, enterprise development, market development etc to the poor tillers.

If the government do not think about whole spectrum of land reform, bits and pieces do not contribute substantially to solve the burning issue being faced and raised by the tenant and tillers, which will also not support to ensure social justice. We do not separate the land bank and land reform but land bank should be a vehicle for greater land reform. Since there are several alternatives in front of government making the tillers landowners, government need to join hands with tillers (tillers and tenants have their organisation) and civil society organisations. This is a firm belief of civil society organisations that government can do a lot and great things in favour of tillers and tenants even without having additional burden to the country spending if it becomes serious and committed on the issue and promotes civil and public partnership among government, tillers and the civil society. This type of partnership will be a landmark in asserting tiller's rights over productive resources and ultimately promoting social justice.

National Conference of People Deprived of Their Right to Land



A national conference of people deprived of land rights was held in Kathmandu from 4 Poush to 6. People deprived of land rights (Haliyas, Kamaiyas, Tenant Farmers, Landless People, Haruwas, and Charuwas) from 37 districts participated in the conference. Participants included the spectrum of women, Dalits and indigenous communities.

The conference issued a 15 point Kathmandu declaration. Some of the key resolutions passed by the conference include the need to guarantee tillers right to the land and the treatment of equal access to land as the fundamental human right. In order to systematically design and launch land right movement in the country, the conference also formed a 15 member committee of National Forum for Land Rights. Representatives from the political parties were also present in the conference.

On the occasion Dr. Minendra Rijal from Nepali Congress (Democratic) expressed the view that land rights movement is one of the most intimate issues for most Nepalese since social and economic disseminations prevalent in Nepali society in one way or the other are related land.

Sarita Giri from Sadbhawana (Anandidevi) on the other hand suggested that political parties should also be included in the land rights issues since the issue of land is closely linked with legal and political systems of the country. She stressed the need to launch campaigns for increasing the productivity of the land.

Sonam of CPN (Unity Center) criticized the politicization of land issue by the government and the political parties in the name of victims. He argued that lack of proportionate land distribution is the root cause of land problems in

Nepal.

Keshav Badal, representative from CPN (UML) and the advisor of Land Rights National Concerned Society suggested that the government should immediately address the land issue keeping in view the plights of victims. He viewed that “awareness, unity and empowerment of the victims is the result of changes brought about by the multiparty democracy.” Man Kumar Shrestha, the spokesperson of the Ministry of Land Reform and Management urged the conference to come up with suggestions that would help government to form appropriate policies and strategies for land management.

Participants representing people denied of land rights namely , Baldev Ram, Som Prasad Bhandari, Moti Tharu, Dambar Tamata and Bimala Lama unanimously put their demand; Eliminate the landlord oriented land acts and formulate people friendly laws to address the land problem. They urged the government to guarantee tillers right to the land being cultivated by them, provide land to the landless and to elimi-



nate the system of *Haliya* and *Kamaiya*. Freed *Kamaiya*, Moti Tharu argued the government to provide all freed *Kamayas* with basic facilities, to issue identify card to freed *Kamaiyas* and to include freed *Kamayas* in the process of decision making.

In the same way, *Haliya*, Dambar Tamata stressed the need to collect data on *Haliyas* and guarantee their right to land. Baldev Ram pointed to the unequal distribution of land and strongly argued that some land is natural resource, those who do not work on the land have no right to occupy the land. "Actual tillers must be ensured of their natural right to the land they have been cultivating", he demanded. Advocate Som Prasad Bhandari expressed the view that laws that unjust and unfair to the tillers must be eliminated and people

friendly new laws should be formulated and introduced.

The conference was historic in that it was first of its kind organized in Nepal. The conference attracted encouraging participation from Dalits, women and indigenous people.

During the conference, workshop sessions on eight different issues were held. Issues were discussed and solutions were suggested as the conclusion of the workshop. On the last day of the conference, a 15 member committee was formed under the Chairmanship of Baldev Ram.

A rally was organized later on the same day. The rally which started in Gaushala passed through various parts of the city and ended at the City Hall with a press conference.

We will fight for the rights till we die: Baldev Ram

Short and lean, Baldev Ram, 52, is of the pioneer, leading figures of Dalit movement in the Eastern Terai region of Nepal. Well, this is not sufficient for a complete introduction of Baldev Ram. He has recently been elected as the president of the National Forum for Land Rights. Ram emerged as a promising leader and organizer from the famous Chamar Caracas Boycott Movement in the region few years back. Though Ram little formal education, his long sufferings and social contradictions he has lived through has made him the champion of freedom and justice for the Dalits and landless people. He has successfully led campaigns for land rights, citizenship rights, and right to reservations for the Dalits. In a meeting with us, he not only raised problems Dalits and landless people are facing but suggested ways for their solutions.

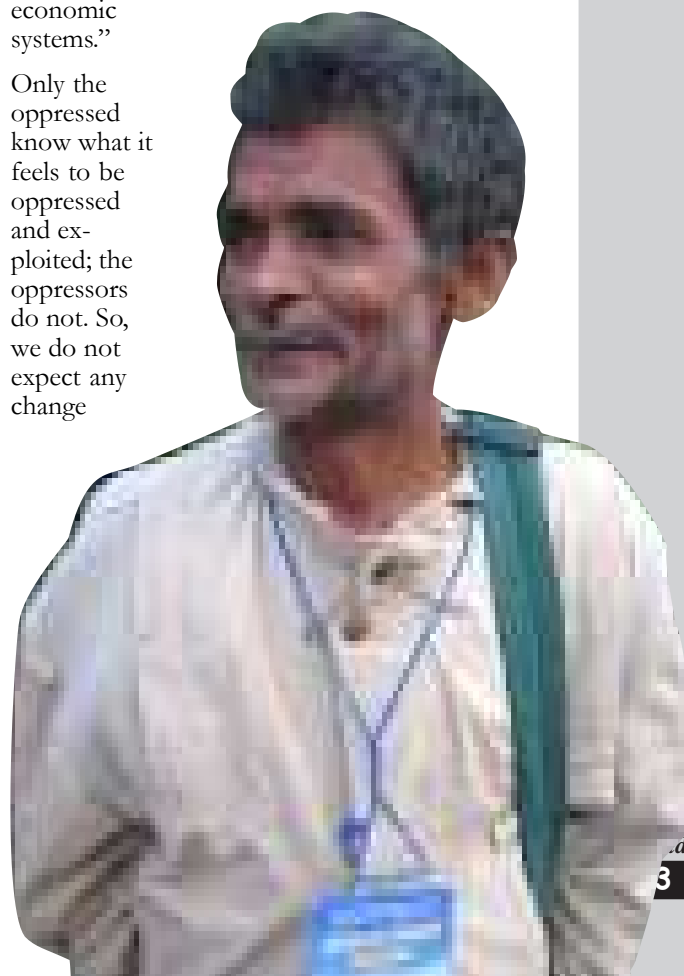
Ram views that although we are all born equal as humans, feudalistic social system has put some in such a situation where they have been oppressed and exploited. Dalits, poor, indigenous people and women have been marginalized and excluded from the mainstream social system. So, we are determined to fight for our right to land for which we have now been united

United as we stand, no one can now stop us from fighting for our right to land since we are the ones who have been cultivating the land from time immemorial. Baldev contends, "Feudals and landlords turned to their own interests, they created a system to exploit us, deprived us of our rights. Now we are determined that we will not cease to fight for the rights until we achieve those rights we have

hitherto been denied."

He blames religion, culture and knowledge as being responsible for creating an unequal social system of exploitation for ages. He views, "we were denied access to education; we were deprived of any state sponsored facilities. We were not only oppressed and exploited but also marginalized and excluded from the mainstream social and economic systems."

Only the oppressed know what it feels to be oppressed and exploited; the oppressors do not. So, we do not expect any change



from them. We want to get it by fighting for it. We want to have access to state mechanism right from the bottom to the top. We have the right to be represented in the policy making process as we have been denied opportunities since time immemorial. Now, we must have access to equal opportunities, this is our sole demand.

Even the state has been bias towards the predicament of *Dalits. Muluki Ain* (Civil Acts) 2020, eliminated untouchability and discrimination based on caste, but it has never been translated into practice because of the state apathy in implementing them.

Dalits have been afflicted not only with poverty and landlessness but also oppressed by the system of untouchability and social discrimination. Landlessness is the root cause of poverty as well as other forms of oppression and discrimination. This is because land is the fundamental necessity of life for us as we need land not only to grow crops but also to build a house to live in.

Landlords can fire us anytime they want. *Dalits* are denied access even to public spaces and properties like water sources and public ponds. How long are we supposed to suffer in the hands of landlords and feudals?

Ram asserts, "We know we have to die one day. But will not cease to fight for justice till our last breath." He strongly demands that the state should provide lands to the landless for their basic livelihoods. Right to land is the fundamental human right since we all are the citizens of this country. The system which allows limited few people to have control over the maximum land should be eliminated.

Political parties also were not seriously concerned about the plights of landless people.

Most political parties used landless people only as means to get into the power and did nothing to change their existing condition. We have little hope from political parties. We have now realized that victims themselves have to rise and fight for the rights, those rights we have been denied for ages.

Oppression and exploitation of landlords have forced tenant farmers and landless people to get united to fight for their fundamental right to land. Now we are going to collect data on landless people across the country. We have planned to form a national organization of landless people. We hope that not only landless people but also those who have been marginalized, excluded and oppressed by the state will join our movement. We have firm confidence that we will be able to make the state and concerned authorities to listen to what we have to say about our fundamental rights.

We believe that unless and until there is equal right and equal opportunity for all the people, the dream of stability, peace and progress will remain a far cry. Landless people do not have enough to feed, they have no money for treatment, no access to education and other facilities. How can one expect peace and stability in such a situation?

Before, landless people and tenant farmers were alone. But now we have become united. We want to send a message, loud and clear, to the landlords that we will not let them live in peace if they are not ready to listen to us. We will even leave political parties behind if they do not understand this new wave of the time.

Since we have found that the problems of tenant farmers and landless people are similar across the country, we are resolved to go united in our fight for the right to land. The state has so far been favoring landlords. They should change now and make the necessary laws to ensure *Dalits* and landless five *Kattha* land to build house and one *Bigaha* land for farming.

Up until now, only a limited few people have access to and control our state mechanism. We therefore, demand that we have change the existing laws for which, we believe, there should be an election for constituent assembly. We respect and recognized the role of political parties for the transformation of society. We are ready to work together with political parties if they have positive attitudes to our agenda.

On future plans, Ram further clarifies, "First of all, we will organize a meeting to develop the constitution of our forum. Then we will set out from committees from the local to national level. When our campaign of building networks is completed, we will launch nation wide land rights movement which the landlords and the government will find it hard to work.

In alternative form

Those till the land,	- Has the right to own it.
Who does the land belong to?	- Those who cultivate it.
Landlord friendly land acts,	- Eliminate.
Tenant farmer oriented land acts,	- Introduce.
To the freed <i>Kamaiyas</i> ,	- Provide land.
The <i>Haliya</i> system,	- Eliminate.
To the landless people,	- Provide land.
On the basis of land cultivation,	- Establish and maintain the tenancy rights.
On the guardianship of mothers,	- Provide citizenship certificates.
Equal to the sons,	- Provide daughters right to inheritance.
For the right to land,	- We will not cease to fight.

Campaign Activities

Distribution of land tenancy certificates

A land tenancy certificate distribution program of Tarkeghyan Gorakhnath Guthi was held at Ichowk, Tarukebeshi. The program was organized by Support Group for Farmers' Right, Melamchi and Land Rights Campaign, Ichowk. 43 tenant farmers received their land tenancy certificates on the occasion. The farmers cel-



ebred the achievement with great pomp and show as they had finally got the victory as a result of continuous struggle for quite a long time.

On the occasion, Som Prasad Bhandari, district chairperson of Networks for Land Rights, viewed the achievement as a result of the collective effort and urged all to go united in future land rights campaigns. In the same way, Hom Bahadur Katuwal observed, "We have achieved the success as a result of our collective effort. We have to disseminate it as our exemplary achievement."

Various speakers and victims spoke on the program inaugurated by Tattwa Kumari Gajurel. Land rights activists from the neighboring villages were also present in the program. The Program was chaired by Nawa Raj Guragain, the chairman of Land Rights Campaign, Ichowk and conducted by Beni Bahadur Pandit.

Land Conference in Banke

Land Rights District Conference was held in Banke from Mansir 23 to 24, 2061. More than 400 participants, including landless people, tenant farmers and Haliyas participated in the conference. While presenting a paper on the first day, Lal Mani Bhandarri, Chairman of Social Development and Research Centre argued that "feudalistic production system and the system of private ownership of land is responsible for creating a situation where people who never work

in the farm become the owner of the land whereas those who work in the field dawn to dusk can never possess a piece of land." He accused "unjust and in appropriate state laws and existing discriminatory social structure are the root cause of land problems in Nepal." He stressed the need to link land rights with other rights as the right to land is fundamental human right.

On the second day of closed session, a committee was formed under the chairmanship of Purna Bahadur Adhikari. A rally was organized later in the day. The conference was concluded with a press conference in which various issues were discussed. Various social organizations working in Banke had expressed their solidarity for the program organized by Social Development and Research Centre, Banke and Oppressed Community Awareness Forum, Nepal.

Functioning of national and regional action groups

Although there was a loose network in the form of national land concern group, the working modalities and structure was not clear. With increasing realization and demand to have effective action group, the network has been re-activate and strengthened in consultation of the very network members and other like-minded experts. Finally, formal and workable modality of national network has been finalized and taking lead of policy dialogue and leadership for



local movements.

Land agenda on PRSP

It was interesting that land reform did not come into the priority of 10th five-year plan (Poverty Reduction Strategy Plan- PRSP) explicitly. CSRC along with the national concern group raised this issue with the government urging land reforms should be the one of the major pillars of national commitment of poverty alleviation. The

national planning commission, Ministry of Land Reform and Management have agreed with this idea and demonstrated their commitment that land reform would be in their priority areas of intervention. This has really given stress, input to the government to think is seriously, and it has provided glimpse of people's views and civil society's position on land rights issue to the government. This will be instrumental for government while formulating the plans in future.

Land rights national concern group

An alliance with the participation and contribution of over 27 NGOs and like minded individuals have formed a National Concern Group for Land Rights, who has successfully conducted its national conference and developed strategy to support movement. This group has developed its own programme especially policy dialogue and



mass movement activities. This group is hosting series of policy dialogue and media advocacy in both Kathmandu and the districts.

Formation of people's organization

The haliya, charuwa, tenant, freed kamaiyas,

Dalits, women, poor tillers etc now have realized that they need to be further organized and launch campaign for changing policies and practices. As a result, they have formed their own organization representing all issues around land rights. The held their annual conference in Kathmandu and issued Kathmandu declaration. Please see annex 1 for details. The media disseminated news and outcome of the conference with due priority and importance. They forwarded these declarations to the government too. In the mean time, the team of tillers and landless came from different districts visited political parties, Ministries, National Planning Commission, National Human Rights Commission etc to share their concerns and opinion on the subject matter.

Linking community movement to the policy reform initiative

The land rights campaigns have been launching over 20 districts through out the country. Thousands of applications have been registered in district land reform/revenue offices. This has been one of the very effective ways of putting pressure to the government. Besides, CSRC has been inviting local campaign leaders (tenants, Dalits, Haliyas, landless etc) at policy dialogue forums and they put forward their views and issues to the policy makers and political parties instantly. Since the large number of campaigners at local level also backs them, the delegates put their positions and forward memorandum to the Minister and other officials along with demands and suggestions. This has given further energy to the local campaign and real insight to the government to understand the perspectives and situation of the deprived people.



Slogans

- The one who tills the land has the right to own it.
- Who does the land belong to? The land belongs to those who cultivate it.
- Eliminate the landlord oriented land acts.
- Make tenant farmer friendly land acts.
- Provide the land to freed *Kamaiyas*.
- Eliminate the Haliya system.
- Provide land to the landless people.
- Establish and maintain farmers' tenancy rights in the name of those have been cultivating the land.
- Provide citizenship certificates under mothers' guardianship.
- Ensure equal right to inheritance for daughters as for sons.
- We will fight for the right to land.

Case Study

The struggle paid at last!

November 2004 turned out to be exciting time for 98 tenant families in Ichowk and Helambu VDC of Sindhupalchok districts. There was a genuine reason for such happiness that they got land ownership certificates in their name. It was a result of long and tireless struggle over claiming the rights on tilling trust land. Probably no one had thought that they would get the tenancy rights over this. This has secured families from risk of being evicted anytime.

They could not get it earlier just because of not having required evidences as demanded by the trust land management office (*Guthi*). Everybody knew that those families were tilling that land for generations. Thus, the tillers filed application in district Land Revenue Office in 2000 citing they have been tilling it for long time and government should provide land ownership on the basis of public verification in the village. They gave strong pressure to government office to conduct verification and ensure their rights. After all, the cabinet meeting decided in favor of tillers to provide land ownership certificates after necessary investigation and verification of evidences and proof. So, 27 November was the victory day for 89 families of tenants.

When government department prepared land ownership certificate to be distributed, the tenants organized a public ceremony and celebrated their victory with big party along with sharing pain and gain of struggle among each other. CSRC was behind the entire struggle of tenants rendering necessary support both technical and moral. The tenants who got land separated from local trust, the tillers got freedom from the priest of the temples (trust). This victory has given sense of achievement of their struggle and feeling of confidence for having secured shelter and increase food sufficiency. This has tremendously increased these tillers's social prestige and power in their community and lives.

Which First?

Mr Badri Ram residing Asanpur VDC – 8 Siraha district could not register his children's birth in village development committee because he had no citizenship certificate. This led their children remained out of schools. Since years Mr Ram has been making efforts to get citizenship certificate but he does not know why he is not granted it. Mr Ram says "The officers say that there is not enough evidence to support your application that you are a Nepali. Therefore, you can not be given the citizenship certificate." He further says, "My fathers and grand fathers were born here, lived and died here. What else I can prove now."

"My father and grand father were landless. I do not have a single piece of land with me. My livelihood is managing from collection and sales of stone and sand from the local river. But the officers ask for land ownership certificate for citizenship, and when I go to landless problem settlement commission and ask for land they ask for submitting citizenship certificate. I do not know which certificate is required to obtain first. The government is playing with 'chicken and egg' proverb similarly with 'Citizenship certificate and Land ownership certificate'."

Organization List of Land Rights Campaign

S.N.	Organization Name	Address	Phone	Contact Person
1	District Dalit Network	Dasrathchand N.P., Baitadi	095-520488	Purna Ram Dayal / Karna Ram Dayal
2	District dalit Network	Amargadhi N.P, Dadeldhura	096-420519, 420546	Gyanu Gairi/ Bhim Rokaya
3	Meet Nepal	Bardiya	084-420810, 420843	Badrikala Acharya
4	Centre for Social Development Research	Nepgunj, Banke	081-550132, 526430	Lalmani Bhandari/ Bishnu Pokharel
5	Dominated Community Awareness Forum Nepal	Nepalgunj Banke	081-550020	Nadnda Bdr. B.K. / Purna B.K.
6	Diyalo Pariwar	Kohalpur Banke	081-540297, 540666	Khima Datta Devkota / Rajkumar Sapkota
7	Society Welfare Action Nepal	Lamahi, Dang	082-540100	Krishna Chaudhary/ Yogendra Chaudhary
8	Rural Women Development Centre	Ghorahi, Dang	082-560837, 560489	Aasmani Chaudhary/ Laxmi Chaudhary
9	Nepal Chepang Sangh	Chitwan	01-5539141	Santa Bdr. Chepang
10	Rural Development Society	Ramche-7, Sindhupalchok	011-661533	Saresh Nepal / Shambhu Sapkota
11	Community Development and Environment Conservation Forum (CDECF)	Sippokhare-7, Sindhupalchok	011-662379, 01-5554006 Lalitpur	Madhusudan Sapkota / Hari Timalina
12	Kisan Adhikar ka Lagi Sahayogi samauha	Melamchi-2, Sindhupalchok	011-663009, 662353	Som Pd. Bhandari / Balchandra Sapkota
13	Village Volunteers Society	Harion-9, Saralahi	046-570184, 570251	Chudamani Wagle, Naniram Poudel
14	Women CO-operative Society Nepal	Bardibas, Mahottari	041-521997	Gunja Khadka
15	Janachetana Dalit Sangam	Madhupatti-6, Saptari	033-560986	Ganesh Pd. Ram
16	Abhiyan Nepal	Ittahari, Sunsari	025-583511, 9842020326	Kaeshab Dahal, Suvash Gautam

Kathmandu Declarations on Land Rights

We the Haruwa, Charuwa, Haliya, Freed Kamaiya, Tenant, Landless, Tillers of Ukhada and Indigenious people from 37 districts came together and successfully organized national conference from 19-21 December 2004 in Kathmandu with the slogan of “let’s Haruwa, Charuwa, Haliya, Freed Kamaiya, Tenant, Landless, tillers of Ukhada and tillers of Guthi land be united and make our struggle stronger and meaningful to assert our rights over land”. The conference, including 268 participants, observers, and stakeholders, has agreed to issue following declaration.

Preamble

- Access to and control over land is the sovereign rights and basic human rights of tillers,
- Natural resources are the common property of entire human being,
- Land is the prime basis of livelihood of all,
- Land, society and culture are interrelated to each other,
- Inappropriate intervention and profit motive on land creates and perpetuates poverty, conflict, and injustice.

Should be done;

1. Dismiss the current Land Act and draft new one with the participation of tillers and peasant. The new act should cater the spirit of land to the tillers, should protect the interest of tenants, should establish the mechanism to redistribute the land and should set policies and systems to increase agriculture production and productivity.
2. The article in the Constitution of Kingdom of Nepal related to the ownership of property should be changed towards asserting tiller’s rights over land and imposing land ceiling to those who have occupied land with irrational way and do not depend on agriculture without compensation. The new constitutional provision should abolish the present system of making private property to natural resources i.e. land, water, forest etc rather making it community property and resources.
3. The loan taken by the entire Haliyas should be forfeited, and the land they have been tilling and shelter constructed should be registered in their names without any conditions. And they should be given the tenancy rights over tilling land.
4. Proper statistics of freed Kamaiyas should be collected and required area of land should be given to cultivate. They should be rehabilitated along with one employment for one family at least.
5. Required area of land should be given for shelter and farming to the landless people. The ownership of land being occupied by slum communities should be transferred to them. The minimum land area for shelter should be 2 Aana 2 paisa, 1 kattha and 2 ropanis in urban area, Terai and hills respectively. Likewise, the minimum land areas for agriculture should be 1 bigha and 10 ropani in Terai and hills respectively.
6. The Guthi land should be converted into pri-

vate (Raikar) based on present possession. The outstanding rental should be forfeited.

7. Actual statistics of unregistered tenants should be collected and provide 50% land immediately as tenant based on the recommendation of local bodies, verification and opinion of witness.
8. The feudal and exploitative practices like Haliya, Kamlari, Balighre, Dole, Guhre, Haruwa, Charuwa etc should be abolished.
9. Family based land ownership certificate “one family one ownership certificate” system should be introduced and the ownership of land should be joint by both men and women
10. The land bank initiative should be tillers oriented rather being a way to compensate to privileged landlords. There should be held rigorous debate and discussions among tillers and peasants before introducing such policies.
11. The Ukhada land should be given to the tillers with the evidence of tillage. The outstanding dues of Ukhada tillers should be forfeited and they should be provided citizenship certificate without hassle.
12. The long outstanding issue of citizenship should be settled out immediately and all the landless and tillers should provided the citizenship.
13. There should be legal provision to have collective ownership and property to the public land that is being occupied and conserved by indigenous and ethnic communities for generations (graze, burn and slash land etc).
14. There should be complete control over having land ownership and investment on agriculture by the multinational companies. There should be promoted cooperative based agriculture enterprises through out the country. The profit oriented investment in agriculture by those who do not get involved in agriculture occupation should not be allowed by the law.
15. Bearing in mind of adverse affect of conflict on poor, Dalits, tenants, Haliya, Freed Kamaiyas, Ukhada and Guthi tillers, cease fire and the meaningful peace talks should be resumed immediately. Tillers and peasants oriented land reform should be one of the major agendas for the peace talk between the state and insurgents.

**Adhoc Working Committee
National Land Rights Forum, Nepal**
Date: 21 December 2004

